

**Central Administrative Tribunal  
Principal Bench**

**RA No.142/2017 IN  
OA No.1422/2013**

New Delhi, this the 19<sup>th</sup> day of August, 2019

**Hon'ble Justice Mr. L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Kusum Lata Nayar  
W/o Late Shri U.S. Nayar  
R/o Railway Flat 76-B/1 Ashok Vihar  
Phase-III Delhi-110052  
Presently at D-47, Pushpanjali Enclave  
Pitampura, Delhi-110088. ...Applicant

(By Advocate: Shri Ajesh Luthra)

Versus

1. Chairman, Railway Board  
Ministry of Railways  
Rail Bhavan, New Delhi-110001.
2. G.M., Northern Railway  
Baroda House, New Delhi-110001.
3. C.A.O./Const., Northern Railway  
Kashmeri Gate, Delhi-110006.
4. C.S.T.E., (Project), Northern Railway  
Baroda House, New Delhi-110001.
5. Dy. C.S.T.E./P(S.W.)  
Northern Railway  
2<sup>nd</sup> Floor, New Exch. Building,  
D.R.M. Office, New Delhi.
6. F.A. & C.A.O./Const.  
Northern Railway  
Kashmeri Gate, Delhi-110006. ...Respondents

(By Advocates: Shri A.K. Srivastava with Shri V.S.R. Krishna)

## **ORDER (ORAL)**

### **Justice L. Narasimha Reddy:-**

The applicant filed OA No.1428/2013 feeling aggrieved by the refixation of her pay scale to the post in terms of implementation of the 6<sup>th</sup> Pay Commission. The applicant raised several contentions, both legal and factual. The respondents resisted the OA by filing a counter affidavit after hearing both the parties. The Tribunal dismissed the OA on 20.04.2017 through a detailed Order. This RA is filed with a prayer to review the Order dated 20.04.2017.

2. The applicant's contention is that certain important aspects, which have a direct bearing on the issue, were omitted from consideration by the Tribunal, and that the interpretation based upon the Notification contained in RBE No.177/1988 was not taken into account. Reliance is also placed upon certain judgments.

3. The respondents filed a counter affidavit opposing the RA. It is stated that every ground

pleaded by the applicant was considered in detail in the OA and there does not exist any basis for reviewing the Order.

4. We heard Shri Ajesh Luthra, learned counsel for the applicant and Shri A.K. Srivastava with Shri V.S.R. Krishna, learned counsel for the respondents.

5. The issue in the OA was as to the re-fixation of pay scale of the applicant in terms of the recommendations of the 6<sup>th</sup> Pay Commission. The re-fixation resulted in downgrading of the pay scale of the applicant by three stages.

6. It appears from the Order under review that the discrepancy arose mostly on account of the applicant holding an ex-cadre post and drawing a higher scale of pay, compared to the one drawn by an official, in the cadre post. It is also noticed during the course of arguments in this R.A. that in case of ex-cadre post the applicant earned promotions relatively earlier compared to those in the cadre post.

7. It is not as if the respondents have reduced the pay structure of the applicant as a punitive measure

or through any administrative exercise. It was in the course of implementation of the 6<sup>th</sup> Pay Commission. Added to that, the RBE No.171/1998 is a comprehensive code, in the context of fixation of pay scales of the officers while working on ex cadre posts. Para 3 thereof made it abundantly clear that the re-fixation must be with reference to the pay of the cadre post.

8. Learned counsel for the applicant submits that the said RBE was interpreted in several cases including the one in ***Badri Prasad and Ors. V. Union of India and Ors.,*** (2005) 11 SCC 304.

9. From the Order of the Tribunal in this OA, we find that more than a dozen of judgments in the Supreme Court, including the one in ***Badrinath's*** case, were taken into account, and the OA was dismissed. This is not a case where an important judgment, having a direct bearing on the case, was cited but was not taken into account. Specific reference is made to every judgment that was cited before the Tribunal by both the parties. Assuming that a different view is possible as to the

understanding of the ratio in these judgments, it does not constitute a ground for review.

10. We do not find any merit in the RA. It is accordingly dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member(A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/vb/